Report on Permitting Services Enterprise Fund Comprehensive Fee Study

Department of Permitting Services
Montgomery County, Maryland
March 31, 2015

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I. Fees Must Fully Fund DPS Operations

Montgomery County created the Department of Permitting Services (DPS) as a one-stop shop for a variety of development services. It operates as an enterprise fund. The following conditions apply:

Enterprise Fund – DPS does not receive an appropriation from taxes. In an economically depressed period, it may be legally possible for it to borrow from the General Fund, but an economic downturn would create pressure on the General Fund for schools, social services and other government functions that would make it difficult for the County to appropriate funds to support DPS. In short, all revenue must come from permit and license sales. The fees it collects cover the lifetime of services that relate to particular permit or license types. Permits for construction and land development generally require ongoing services for several years and the enterprise fund must cover these resources for the duration of related services.

One-Stop Shop – Merging units formerly located in several different departments into a new department as a one-stop shop, the County created efficiency gains so that residents and businesses could go to one place for all Executive Branch licenses, permits and services related to development. Residents and businesses engage in regulated activity for which fees are set to cover the costs of all services related to the regulated activity, including, *inter alia,* permit and plans intake, processing, reviews, coordination, consultation, inspections, approvals, complaints handling, legislative support, reporting, documents management, information requests and compliance determinations. The fees for DPS services allow the group requesting the services to fund the costs of services without burdening those not using the services. In turn, General Fund resources are available to maintain other important government services, which is critically important when faced with tax limits and uncertain economic times.

Successful construction and development is important for the economic health of the County and the County's budget. DPS must function at a level that is ready-to-serve on demand. As a one-stop shop, while the different divisions of DPS perform services within their respective disciplines, there is significant cross-over and coordinated services among divisions to assist with the processing of permit applications, plans and construction and development inspections and with the handling of complaints – regardless of the division that has primary permit issuance responsibility. As an enterprise fund, DPS must recover all of its costs from the permits and license services it provides. It is not feasible to predict the full scope of services that may be needed for every single permit; therefore, to establish rates for an enterprise fund, it is necessary to estimate average fees for all available services.

No Sustained Profit or Loss – Revenue is a function of fees and quantities of permits, licenses or approvals that customers request. Volume of permits, licenses and approvals is inherently volatile making revenues difficult to predict. DPS should structure its rates so that its operations are covered and the reserve fund target set by the County is funded. DPS cannot sustain a loss, and it should not have an excessive fund balance.

Reserves – Enterprise funds normally require a fund balance sufficient to dampen inevitable and unpredictable changes on net financial condition because of changes in customer demand and cash flow. The Department's ability to respond to increased service demands related to economic fluctuations will be compromised in the absence of an adequate reserve and staffing volatility. County policy is that the DPS enterprise fund has a reserve target of 20 percent of resources after accounting for DPS automation surcharge (currently at 5 percent of project fee).

Reasonableness – We did not conduct this project as an efficiency study, but as a rate study. That said, the work we did enabled us to see some indicators that the Permitting department is running efficiently at an appropriate value for its customers. We think that there are some key performance indicators of a well-run permitting department.

- **Hourly Rate**: Typically, the fully loaded hourly rate for a permitting agency in our experience ranges from $75 in a rural setting to $150 in an urban setting. In Montgomery County, the 2016 proposed budget, including indirect cost, is $39,349,282. There are 212 FTE. Applying typical levels of paid leave per employee yield an average of 1,604 assignable work hours per FTE. This yields a fully loaded hourly rate of $115.72. This is well within the range we would expect as a departmental average.

- **Process Improvement**: An efficient department uses an electronic permitting system that supports web-based submission of applications and plans. While some applicants may not submit plans electronically, larger and more regular builders will take advantage of the efficiencies of doing business electronically.

II. Current Fee Structure and Policy Issues

The Department of Permitting Services is the successor to several different agencies, each of which had a charter to regulate an aspect of development. DPS fees which are set by regulation are based on methodologies set by the International Codes Council, state law and an earlier study.

The current rate structure has been in place for a long time and in some instances is complex. Historically revenues have fluctuated with total revenues being too low in some years to cover DPS expenses and reserves and in some years in excess of required revenues. The department has made interim adjustments and last summer undertook this Comprehensive Fee Study. As part of this study, we have reviewed services, staffing, work volumes and budgets to create a revised, simplified rate structure that is tied to staff functions to determine the Department's cost of delivering the services. We conducted a comprehensive functional analysis by positions, reviewed volumes of different services provided, reviewed the structure by which DPS bills for its services, and the units within the divisions (Building Construction, Land Development, Zoning and Site Plan Enforcement, Customer Service and the Director's Office) that do the work.

We interviewed County staff and reviewed assorted information including, the current regulations, computer generated reports on volumes of work and services provided, and correspondence containing complaints about the current fee structure to gain an understanding of the recent history of rate issues. We conducted three public briefings with stakeholders to share preliminary findings.

Department staff shared concerns raised by DPS customers about the current fee structure, including:

- Permit price differences associated with different types of construction. Examples include a three-story townhouse vs. a four-story townhouse (can be as much as 3 to 5 times as much for a four-story building which must meet commercial occupancy requirements under the International Construction Code).
- Another area of concern that the Department has preliminarily responded to is the significant permit price difference between a high-rise housing development built as a single tower and the equivalent number of units in a project with multiple wood frame buildings. This study considered the extent to which a difference in development scope results in a much greater change in fee price

- Concern that the County's reserve policy for an enterprise fund may not address the fiscal challenge of a multi-year economic downturn. Balancing the budget through staff reduction could leave the department too lean to meet the demand as construction returns to normal levels, results in processing delays that impede economic recovery in the building industry. The long lead-time to recruit and train staff impairs ability to provide needed services.

A. Rate Structure, Expenses and Cost Centers

The fees paid for DPS services must cover the costs of:

- The operating budget appropriated by the County
- DPS share of indirect cost of overhead support for County government services (calculated as 15.9% of *personnel* costs in Fiscal Year 16, but changes from year-to-year, as opposed to total costs, in the County's central services cost allocation plan)
- Capital expenses for DPS
- Information technology, to the extent not covered by automation charge
- The need for reserves to allow rates to remain stable through typical business cycles

a. Operating Budget

DPS must recover the full cost of annual operations in the approved budget. The spending and staffing levels are subject to review and approval of the County's Office of Management and Budget, the County Executive, and the County Council.

We have used the County Executive's proposed 2016 budget to ensure with the proposed fee changes that DPS will have the means to fund the positions.

This includes all DPS expenses including DPS Direct Costs and Indirect Costs for services provided by organizational units outside of DPS.

b. Indirect Cost

Annually, Montgomery County determines an indirect cost rate that reflects the DPS cost of shared support services at the current rate of 15.9 percent of personnel cost (as opposed to 15.9 percent of total cost). There are services essential to the operation of DPS that are not provided by DPS itself. Including indirect cost allows fees to reflect the County's cost of the work. DPS actually pays these expenses annually by a transfer to the General Fund.

c. Information Technology

The County authorized DPS to add 5 percent (10 percent prior to July 1, 2013) to permit fees to fund information technology operations and modernization. DPS prepares an IT spending plan as part of its annual budget process. As with any expense plan, the County is not obligated to make the purchases except as included in the approved annual appropriation.

We recommend that the IT plan address all IT hardware, software and infrastructure costs, including items such as:

- IT related build-out required for the new Wheaton office space
- All costs associated with the transfer of systems from the current facility to the Wheaton site
- Software licenses and upgrades
- Personal communication devices
- Kiosks for public access to DPS systems
- Staff dedicated to developing, implementing and maintaining IT systems and investments
- Other IT related costs

IT services and investment are necessary for the efficient operation of the Department.

d. Reserves

The volume of permits from year to year is difficult to predict. As an enterprise fund, DPS manages the uncertainty in part by retaining a fund balance of approximately 20 percent of resources. In 2002, an internal County task force developed principles for the "Fiscal Management of the Permitting Services Fund". The goal of the principles was to " ... protect the health of the Permitting Services Fund, provide adequate liquidity for daily operations as well as unanticipated needs, and allow for renewal and replacement of major investments including technology."

As adopted in 2002 by DPS, OMB and the Department of Finance, the County's policy for the Permitting Services Fund states [1]:

> "The goal of these principles is to protect the health of the Permitting Services Fund, provide adequate liquidity for daily operations as well as unanticipated needs, and allow for renewal and replacement of major investments including technology. The Permitting Services Fund operates as an enterprise fund whose operations are intended to be fully self-supporting through user charges and fees. To achieve these goals, the task force proposes the following principles:

[1] DPS Fund Balance Policy, February 2002

1) In all projected years, cash balance should be targeted to cover the following:

   - "A set-aside of accumulating funds for future known IT asset renewal and replacement costs. This amount will be re-evaluated each year based on asset condition and the DPS fund's revenue stream;

   - "A net cash balance, after IT set-aside, of approximately 20 percent of resources in the budget year, and 15 to 20 percent of resources in out-years, to cover the necessary cost of operations in the event of unanticipated revenue losses or extraordinary expenditure increases.

2) Fees should be set at a level such that after factoring in cash balances in excess of the minimum required level as established above, all costs of operations are recovered during the year. The goal is to avoid significant annual changes in rates."

The County presents DPS's financial results in the annual Comprehensive Annual Financial Report (CAFR). DPS is presented under the category "Business-type Activities". The County's Budget Office projects DPS's revenues and expenditures for each of the next six years. One purpose of the projections is to determine what DPS's "net assets" will be because of the County's policy for fund balances. In making these calculations, the Budget Office determines the net asset balance by determining claims against the results presented in the CAFR for such items as IT renewal and replacement, and DPS's capital costs associated with the Wheaton Building.

In 2007, the Director of County OMB issued a memo to clarify certain financial reporting issues that relate to how the 2002 policy is applied. Governmental Accounting Standards Board (GASB) Statement 34, "Basic Financial Statements—and Management's Discussion and Analysis—For State and Local Governments", included some changes in financial reporting. For example, "retained earnings" became "net assets". The 2007 memo stated that:

> " ... This analysis may result in additional revisions to the policies in the future. ... In the meantime, the fund balance restatement from cash to unrestricted net assets provides a higher level of assurance that available resources have been appropriately considered in the rate-setting and budget development process."

i. DPS Reserves / Net Position

The FY 2013 CAFR and Budget Office analysis have similar results:

	FY 2013 CAFR	FY 2013 Budget Office Analysis
Operating Revenues	$44,893,102	$43,764,960
Operating Expenses	$27,478,307	$27,694,025
Total Net Position – Beginning of Year	$8,023,419	$7,874,584
Total Net Position – End of Year	$22,345,551	$22,148,902

The Budget Office projects revenues and expenses in out-years. Because service demand can be volatile, revenues in the out years are not projected based on the expected demand for permitting services but rather on the prior year's revenues as may be adjusted based on prior years' trends. Because revenues are inherently volatile, the Budget Office has developed a regression model to statistically project the trend in construction value, and therefore permit revenue; however, even these projections are subject to events beyond the County's control.

DPS is authorized to have a reserve of approximately 20 percent of its Total Resources, not including the additional 5 percent authorized for IT purposes. The Budget Office applies the policy of "cash balance of 20 percent of resources" by this formula:

Beginning Fund Balance
\+ Revenues
\+ Net Transfers
= Total Resources

Appropriations
\+ Other Claims on Fund Balance
= Total Use of Resources

Total Resources
\- Total Use of Resources
= Year End Fund Balance

While several past years resulted in a negative fund balance, changes to fee collection practices and in the type of construction has led to different results. For FYs 2014 and 2015, the Budget Office recognized the impending large capital need for DPS's move to Wheaton and calculated this as "Other Claims on Fund Balance" which is the amount that the Year End Fund Balance exceeded 20 percent of Total Resources. This was discussed in public sessions and information with the County Council during County CIP and Operating Budget deliberations in both referenced fiscal years.

The 2002 policy states that the DPS fund should provide for adequate liquidity for daily operations as well as unanticipated needs, and allow for renewal and replacement of major investments including technology.

B. Filing Fee Requirements

In many cases, the current fee schedule requires the applicant to pay a filing fee of 30 percent of the total permit fee upon submitting the application and the balance when picking up the permit. In some cases, the requirement is the greater of 30 percent or a fixed amount. This approach was a direct response to historic revenue deficiencies where DPS provided services, but applicants elected not to proceed with the projects leaving DPS unpaid for services provided.

DPS reports a historic problem of some applicants not following through on their building projects, never picking up the permit when it is ready. Some developers will initiate plan review to allow a project to proceed quickly when economic conditions are favorable. They will not pick up the permit and pay the balance of the fee which would cover work already performed and to be performed until they believe that the time is right. To the extent that this is a financial issue, DPS needs to ensure that the portion of the fee that it collects upon submission of the application reimburses it for the costs associated with intake, plan review, development review, and related work.

Applications subject to this fee require the following general steps:

- Intake
- Plan Review
- Inspection
- Documentation
- Development coordination
- Complaint handling
- Customer support

There are certain common costs (e.g., Director's Office, Customer Service and much of Zoning and Site Plan Enforcement) that benefit all of these steps.

For Building Construction and Land Development that all have Plan Review and Inspection, we determined the portion of the total that pertains to Plan Review. Using the FY 2014 actual expenses, this was 47 percent for Land Development permits and 39 percent for Residential Construction. Allowing for the permit processing units (which have costs that benefit both intake and documentation), we believe that a more financially sustainable practice would be for DPS to require 50 percent of the total permit fee to be paid at the time of submitting the application. The deposit estimates for Montgomery County DPS are based on the following analysis of FY 2014 budgeted expenses:

	Right of Way	Residential
Plan Review (A)	$1,000,334	$1,179,481
Inspection	1,126,987	1,818,434
Total (B)	$2,127,321	$2,997,915
Ratio (A/B)	47%	39%

C. Fund Balance Issues

Montgomery County adopted a reserve policy intended to provide liquidity for daily operations as well as unanticipated needs, and allows for renewal and replacement of major investments including technology. Under the policy, DPS may retain a Net Assets balance of approximately 20 percent of resources after the capital and IT set-asides. As an enterprise fund dependent on fees to fund operations through the ups and downs of the building business cycle, adequate reserves are vital.

If there were no fund balance, DPS would have to add 20 percent to its annual operating expense in order to achieve the targeted 20 percent reserve, or realize revenue from permit volume above projections. If conditions were stable and the 20 percent reserve target was met in year 1 (without being spent), DPS would need no additional charge for reserve in year 2. Building demand is anything but predictable, so DPS needs a method to calibrate its charges from year to year as demand fluctuates.

We envision DPS comprehensively reviewing its rate structure only once every five years or more (unless a significant external economic event requires the County to adjust the rate sooner). We recommend that DPS review its actual charges at least every other year so that the fund balance and revenues remain consistent with the County's reserve policy. The County should authorize DPS to adjust all of its rates by the percentage needed to achieve the fund balance policy.

The most difficult variable to forecast is permit revenue. Therefore, we believe that the goal would be for a target reserve balance, which would be approximately 20 percent of resources, which should be achieved as the desired target but may vary each year because of events beyond the control of DPS. Any planned IT spending or reserves for approved projects would not be counted in the Year End Fund Balance amount that is used to determine the target reserve balance of approximately 20 percent.

DPS would need to implement a program to carefully monitor its financial situation so that it can better plan for adjustments to its rates. Rate adjustments can be achieved by using a "Rate Stabilization Factor" (RSF) with which DPS would adjust its fee rates, up or down, to maintain the reserve policy of approximately 20 percent of resources in the budget year. The RSF would be calculated as part of DPS's annual budget planning cycle. We observed that the monitoring of the Adjusted Net Asset balance is led by the County's Budget Office. DPS would need to carefully monitor the status of its Adjusted Net Asset balance and track the volume of its construction permit applications and capital spending needs so it can anticipate situations where its revenues may result in the Adjusted Net Asset balance exceeding target levels.

DPS could temporarily adjust its rates to achieve the 20 percent Net Asset Balance goal; DPS would need to compare the amount over the balance target with its projected revenues.

If revenues fall short, which could happen in an economic downturn, DPS would not be in a position to adjust its charges. This would make fees higher at the very time when prices are of greatest sensitivity to builders, but DPS has no other way to fund the services it is mandated to provide.

a. Adjust the Net Asset Balance Policy

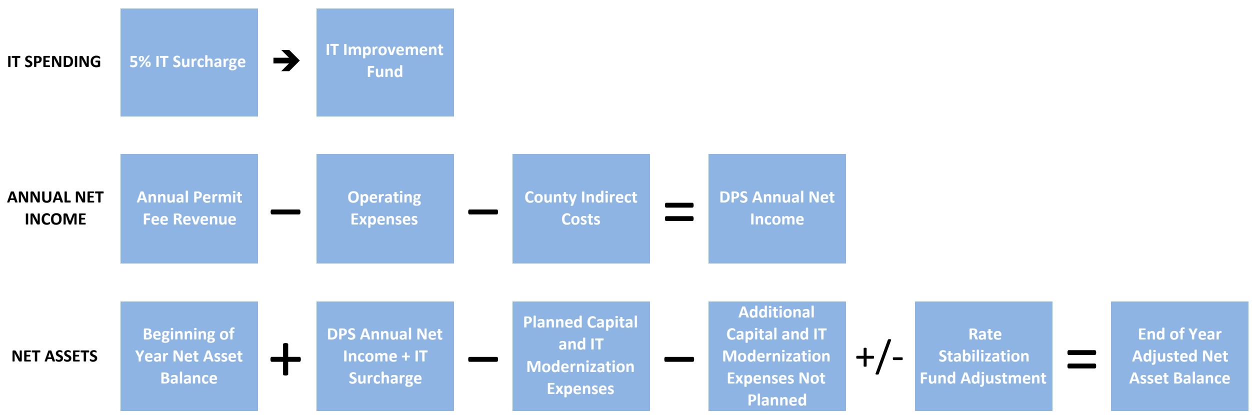
Managing its Net Asset Balance to a specific target every year is difficult because of the fluctuations in permit demand. Unanticipated drops in demand (as happened during The Great Recession) could render the DPS Permitting Services Fund (PSF) in a negative position and without access to outside working capital.

The County could consider adjusting the Net Asset Balance policy to a higher year-end balance. The DPS, in consultation with the County Executive and the Office of Management and Budget, could review DPS's working capital requirements for the next two to three years. The reviews should reflect forecasts for permit demand, projected operating expenses, and the need for the renewal and replacement of major investments including technology. The analysis should also reflect permit fees classified as deferred revenue (see below), which, if implemented, will have been collected but not yet recorded as revenue (this would apply to multi-year projects and represent the matching of revenue to the period when the work is actually performed). The limit on the balance would be subject to periodic review.

b. Concerns About Rate Adjustments

In a sustained downturn, DPS would have to reduce spending, including reducing staff. However, the time required for recruiting and training new staff means that DPS cannot do this lightly. We assume that economies cycle up and down and that some of the strongest demand for building permits follows a time of low building permit demand. If so, DPS needs to be staffed with a sufficient number and caliber of staff to meet this demand, lest it choke an economic recovery by not being prepared.

The following graph summarizes some of the key financial processes that govern DPS.



A few key points to remember are:

- IT revenues should recover all of DPS's IT operations, system improvements, and capital costs, and are available only for that purpose. To the extent that IT revenues do not meet expenses, the balance must be covered as general overhead expenses.
- Annual net income may be a negative number as has occurred several times in the past; annual revenue is a function of rates and volume and DPS does not control the volume of demand. Reserves are not an additional cost of permits, but are a cushion against future downturns funded when demand in a strong period exceeds the need of that period.
- Net assets are the key to DPS liquidity. The reserve policy is a target. While there is no lower limit, if economically depressed conditions were to be severe or persistent, DPS could quickly exhaust its fund balance. That would force some level of expense reduction, which it would have to balance against the need to maintain quality service for current activity and to be ready for an eventual economic recovery.

III. Peer Practices

A. Summary of Peers and Peer Methods

Neither the International Code Council nor the State of Maryland mandate a method for how to charge for development permits. The same is true for the Commonwealth of Virginia.

The ICC notes that many communities base fees on the valuation (cost) of the construction work because there is a linkage that the valuation (cost) of a project is related to the amount of work to be performed in plan review, inspections, permit administration, and overhead. It provides average construction costs per square foot by construction and occupancy types. These will not necessarily lead to a cost-recovery level for any given jurisdiction.

We believe that there are two considerations when evaluating user fees. First, courts have accepted the principle that user fees and taxes are different. A tax is an extraction on income, spending or wealth that need not relate to how much service the taxpayer consumes. A fee is a purchase of service whose price is expected to have a connection to the cost of providing the service. Users can avoid paying the user fee by opting not to undertake a specific activity; therefore paying the fee is discretionary.

Not all governments charge to recover the full cost of permitting services. In fact, many do not and there are varying factors that may go into these decisions including matters such as debt ceiling, tax caps and mandated demands on budget as well as important policy decisions on how to use remaining resources. Governments that do not establish permitting activities as enterprise funded services have made the decision (implicitly or explicitly) to have their general funds subsidize permitting costs. Montgomery County, which has competing concerns including a debt ceiling, tax cap, a massive maintenance of effort requirement for public schools, critical public safety services and other services that significantly contribute to the quality of life in the County, has determined that development and construction activities should pay for their permitting services.

We reviewed the budgets and approaches to fees of the following other Washington area governments that were identified by DPS as peer organizations:

Washington, DC	Prince George's County, MD
Baltimore County, MD	City of Alexandria, VA
Frederick County, MD	Arlington County, VA
Howard County, MD	Fairfax County, VA

The peers are not organized the same way as DPS, vary in the specific services they provide, and charge for permitting and inspection services in different ways.

Montgomery County DPS focuses on the issuance of building permits, zoning reviews, building and site plan inspections, and land development planning including right-of-way and environmental reviews for water quality and sediment control along with enforcement for all of these activities. DPS operates as an "enterprise fund". [2]

Several of the departments in other cities or counties exclude or include different or additional services. For example, the Department Consumer & Regulatory Affairs in Washington, DC is also responsible for professional and corporate licensing. Montgomery County does site plan enforcement and zoning through DPS, not a separate department as is common and subject to separate fees elsewhere.

For building permit services, we noted that the above governments followed three types of approaches when charging for building permits:

- Valuation whereby the fee is based on the estimated value of the project
- Square footage whereby the fee is based on the size of the project
- Combination of valuation and size

Jurisdiction	Valuation	Size	Combination
Montgomery County, MD			✓
Washington, DC		✓	
Baltimore County, MD		✓	
Frederick County, MD		✓	
Howard County, MD		✓	
Prince George's County, MD	✓		
Alexandria, VA			✓
Arlington County, VA		✓	
Fairfax County, VA			✓

The entities that charge based on size of project used the project's square footage. Washington, DC bases its charge on the cubic feet of the project.

[2] An enterprise fund establishes a separate accounting and financial reporting mechanism for municipal services for which a fee is charged in exchange for goods or services. Under enterprise accounting, the revenues and expenditures of services are separated into separate funds with their own financial statements, rather than commingled with the revenues and expenses of all other government activities in the General Fund.

Alexandria, VA and Fairfax County, VA use both valuation and size to determine fees. Alexandria (which also uses several surcharges to the basic permit price) bases fees for new construction and renovation projects on value and square footage, respectively. Fairfax County bases fees for new construction and renovation projects on square footage and value, respectively.

B. Price Comparisons

DPS identified several permit and inspection departments in the Washington metropolitan area to serve as a panel for comparing fees and fee setting practices in the region. To the extent possible (which was limited because most are not true enterprise funds), the peer group included enterprise funds because of the expectations that an enterprise fund has to recover the entire cost of its efforts from fees. Non-enterprise fund units may subsidize fees with tax dollars.

We compared the nine departments, plus DPS, using three criteria:

- How the departments are organized and financed
- What fees each would charge for a defined set of building projects
- The specific functions that each lead department provides

The panel of departments included:

Jurisdiction	Lead Department	Enterprise Fund?
Montgomery County, MD	Permitting Services	**Yes**
Washington, DC	Consumer & Regulatory Affairs	No
Baltimore County, MD	Permits, Approvals & Inspections	No
Frederick County, MD	Permits & Inspections and Planning & Development	No
Howard County, MD	Inspections, Licenses & Permits	No
Prince George's County, MD	Planning, Inspections & Enforcement	No [3]
Alexandria, VA	Code Administration	**Yes** [4]
Arlington County, VA	Community Planning, Housing & Development	**Yes** [4]

[3] Prince George's County is developing plans to create an enterprise fund
[4] Enterprise Fund for building permit purposes only; not a true "One Stop Shop"

Jurisdiction	Lead Department	Enterprise Fund?
Fairfax County, VA	Land Development Services	No

DPS selected the comparison panel. It wanted to compare itself to other regional departments.

While all lead departments are city or county agencies and included in local budgets, being an "enterprise fund" means that the departments are reported as separate activities (funds) in the annual financial statements. While all of the above departments are reported separately in the respective governments' budgets, if the departments are not enterprise funds their revenues may be comingled with those of other "general fund" activities making inter-governmental comparisons difficult. We note that this is often found when fee-generating departments are part of a government's general fund. While governments often list "fees" as a revenue item in the general fund budget, "fees" often includes a variety of sources, not just "building permit fees". This can make comparisons difficult.

Enterprise funds are supposed to be self-sustaining whereby revenues should approximate costs. Enterprise funds are usually designed so that they do not rely on general fund appropriations. This is why debt financing for enterprise funds typically uses revenue bonds, not general obligation bonds.

Another issue that can make comparisons difficult is that inspection activities often involve multiple departments. Expenses and revenues may reside in several departments.

The peer departments (lead departments in the previous table) do not all provide the same array of services. Some departments provide services that go beyond what's typically considered building permit inspection services. Some departments provide fewer building, and inspection services than DPS. Most departments do not provide the zoning, site plan and fire systems reviews and inspections that are provided by DPS. DPS's understanding of what services each peer lead agency provides is presented below. It is important to note that fees in one jurisdiction may not represent the same services in another jurisdiction. The services may in fact be offered by another agency within that jurisdiction, just not by the agency that issues building permits and inspections construction projects.

Jurisdiction	Planning	Zoning	Septic / Well	Fire Protection systems	Site plan	Right of Way	Construction	Storm water management / Sediment Control	Trade Licenses	Fire
Montgomery County, MD		✓	✓	✓	✓	✓	✓	✓✓	✓	✓
Washington, DC	✓	✓					✓	✓	✓	
Baltimore County, MD							✓	✓		
Frederick County, MD			✓				✓	✓	✓ [5]	
Howard County, MD							✓	✓	✓	
Prince George's County, MD		✓	✓			✓	✓	✓	✓	
Alexandria, VA							✓			
Arlington County, VA							✓			
Fairfax County, VA							✓			

In a review of the budgets for the above agencies, we attempted to compare the revenue, expenses, and staffing. This is difficult, given the different services that each provides.

Jurisdiction	Enterprise Fund	Budgeted Expenses	Revenue	Revenue / Budgeted Expenses	FTEs
Montgomery County, MD	**Yes**	$30,112,185	$43,264,363	144%	200
Washington, DC	No	$39,476,000	$6,278,000	16 %	62
Baltimore County, MD	No	$9,487,575	NA	NA	161
Frederick County, MD	No	$5,591,360	$8,205,087	147 %	NA
Howard County, MD	No	$6,986,691	$9,481,300	136 %	65
Prince George's County, MD	No	$24,330,600	$16,533,600	68 %	279
Alexandria, VA	**Yes**	$6,011,109	$5,111,889	85 %	48
Arlington County, VA	**Yes**	$14,032,505	$13,606,951	97 %	90
Fairfax County, VA	No	$21,341,825	$26,906,817	126 %	261

Note: Most data drawn from FY 2014 budgets. * Washington, DC provides Administrative Services, Financial Operations, Permitting, Enforcement, Inspection, Zoning and Construction Compliance, and Licensing. This is a broader scope of services, so comparisons to Washington, DC should consider the difference.

[5] Plumbing

The two other peers operating as enterprise fund departments (City of Alexandria and Arlington County) recover most, but not all, of their costs through fees. We also noted that Arlington County has an estimated "capital reserve balance" in its enterprise fund for FY 2014 of $14.1 million ($17.3 million at the end of FY 2013). The City of Alexandria declined to provide information by email and explained that it only responds to Freedom of Information requests, and then, only from Virginia residents. However, we were able to extract a certain amount of data from public reports.

The ratio of budgeted expenses / revenue varies considerably. While the Washington, DC Department of Consumer & Regulatory Affairs issues building permits and licenses it also has responsibility for tax and corporate matters. Without detailed budgetary information, this makes comparisons to DPS difficult.

Some of the above entities receive significant subsidies from their respective general funds. We noted that Baltimore County and Prince George's County received general fund subsidies of $1.4 million and $7.8 million, respectively. The de facto subsidies may actually be higher if the counties did not recoup the costs of central services. DPS reimburses Montgomery County for the cost of the County's central services (approximately 16 percent of DPS's expenses).

Because of differences in the services that fees support, differences in whether departments are enterprise funds or partly tax-supported and differences in fee structure, apples-to-apples price comparisons face nearly insurmountable challenges. We explored the possibility of including meaningful comparisons for this report, but conclude that no comparison would overcome the concerns of appropriate comparability.

IV. Proposed New Fees and Fee Structure

In this section, we recommend a new fee structure. We intend that it address some of the reported challenges of the current fee structure.

A. Rates Must Recover Cost

DPS services must recover the total cost of operating DPS. Application fees must fund all costs, including those of providing permit support such as design consultations and case management. Our approach to develop rates addressed five factors:

1. DPS's rates need to recover DPS's total operating costs because the Department does not receive any support from the County's General Fund. Total costs include personnel, operations, and reimbursements to the County for central services.
2. The County has a policy that DPS's cash balance is to be targeted to have a Net Asset Balance of 20 percent of resources. This does not mean that DPS can include a profit in its rates but that it can retain a certain amount of revenues as a reserve. We agree with the fiscal premise that DPS needs to have an adequate Net Asset Balance because of fluctuations in the demand for building permits.
3. The Net Asset Balance should be adjusted for planned capital expenses, including IT modernization and needs.
4. The International Code Council (ICC) rate methodology could be modified so that it can be used for setting rates for new construction.
5. Land Development and Zoning fees could be designed to recover cost, but do not lend themselves to the ICC method.

Underlying principles for setting a rate schedule include:

1. Aggregate cost recovery is the standard. If strong demand creates an unintended overly large cash balance in the fiscal year, the excess must be spent for the purpose collected (i.e., services to applicants for permits). It may not be used to fund unrelated county costs. DPS informs us that partial fee refunds are not administratively or fiscally practical, nor have we seen precedent for that in any other jurisdiction. DPS has committed fund balance for the past two years to valid DPS expenses in anticipation of its move to Wheaton.

2. Average cost per applicant is the standard. There is no requirement to prove to an applicant that the fee for his or her particular application reflects the unique requirements of reviewing that particular project.

In our opinion, no method of charging (based on proportionate valuation, square footage or employee time) can assure all applicants that the fee they pay will equal the exact cost of reviewing their particular project. Fees fund the services to be provided and the Department's readiness to serve.

Support to Other Units – The Director's Office, Customer Service, and to some extent Zoning and Site Plan Enforcement exist to direct and support the other DPS units and to help customers access the services provided by these units. We have allocated the cross – department costs across units.

Some DPS staff explained their time as "General and Administration," which is a common cost accounting convention to describe support to other units that cannot be assigned to specific activities without undue effort. This may include training, meetings, and even matters such as development review committee participation in support of subsequently received applications. The convention is to allocate it to the activities it supports by the proportion of direct cost of the units providing direct service.

In Building Construction, Land Development and Zoning and Site Plan Enforcement, we allocated any time assigned to "General and Administration" for the unit only to the activities of each of those respective units.

B. Process of Developing Rates

Expense Source - We began with FY 2014 actual expenses and work volumes. The proposed FY16 budget came out in the midst of this work effort. Therefore, rates were tailored to the proposed FY16 budget. DPS also provided actual counts of applications by type.

Refine Expenses to Reflect Cost of Provider Units – Sometimes, DPS staff work outside of their provider units to assist with services required by an applicant or in connection with an application in another part of the department. For example drainage and roadside tree reviews arise with residential services but are actually provided by the right-of-way staff in land development. Another example is well and septic services which arise in connection with both commercial and residential permit applications. We had DPS staff explain the extent to which they work outside of their assigned unit in support of applications that are the principal responsibility of another DPS unit. The collaboration of these units is an important benefit of the one-stop shop. Even with extensive collaboration in some cases, it is clear in all cases which unit has the primary responsibility for a given type of application. The following relies on staff estimates, not an actual time study.

The units, as described in the department's appropriation, are:

Director's Office
Land Development
- Well & Septic
- Right of Way Inspection
- Right of Way Plan Review
- Water Resources - Sediment / Stormwater Inspection
- Water Resources - Sediment / Stormwater Plan Review
- Permit Processing

Customer Service
- Customer Information
- Customer Outreach and Education

Building Construction
- Commercial Electrical Mechanical
- Commercial Life Safety / Structure / Access
- Residential Plan Review
- Residential Inspection
- Green Building
- Permit Processing
- Fire Protection

Zoning and Site Plan Enforcement
- Zoning
- Site Plan Enforcement

We used the time estimates to restate the budget showing the costs of the different units responsible for services. In Building Construction (a large unit and one in which the difference in fees for residential and commercial projects has been an issue), we separated residential and commercial costs to use in separate rate schedules.

Establish Flat Fees – In some cases, the effort required for an application is consistent and predictable. We had DPS staff note which application types require a consistent and predictable level of effort. For the ones that are consistent and predictable, we developed flat fee rates.

We did this by having DPS staff note the time requirements for proposed flat fee services, breaking each permit type down by requirements for intake, plan check, inspection and documentation/close out. If a particular application did not require all four steps, the time for steps not used was zero. For all permits there are ongoing services including information requests, legislative support, meetings, inter and intra-departmental coordination, complaint response, reports, etc.

We extended the time per flat fee type by the annual demand for each type. We summed the costs and deducted them from the total cost of the responsible unit. The residual cost is for calculation of variable rates.

Variable Rates

Residential: $0.71 per square foot of constructed area for new construction and additions

Commercial: $1.19 per square foot of constructed area for new construction and additions

This system is a linear rate where the cost per square foot is the same across all project sizes, applicable to the full cost of construction. If we were to establish a base fee for any permit, it would have to be based on the fixed cost of issuing a permit, which would require time data. DPS, like most permitting agencies, does not maintain time cards specific to each application processed. As there is no time data, we did not use this approach.

Under Maryland Building Code, 4-story structures are commercial by nature and require additional plan reviews and inspections. With the current DPS rates, the 33 percent increase in height was, in some instances, accompanied by a very large increase in permit fee. The proposed rate structure will significantly shrink the current fee difference between 3 and 4-story townhomes. The 4-story townhomes have a higher permit fee per square foot, but not by the margin that caused builders such concern.

Zoning and Site Plan Enforcement has three duties; to process applications and to ensure that permits conform to development approvals and that construction work complies with the conditions of building permits, zoning and site plan approvals as articulated in the County Code and MNCPCC project resolutions. For application processing work, we have developed a series of flat fees, based on the office's explanation that these applications require a consistent and predictable level of work. The remainder of the cost of zoning and site plan reviews and enforcement is an overhead cost to all permits, replacing the current system of two rate zones (DPS and MNCPPC).

The rates themselves are in Appendix A, as they do not lend themselves to a narrative presentation. They include some new charges (flat fees in particular). Overall, we concluded (and DPS staff agreed) that the incremental evolution of the fee list has created an overly long and complicated list of charges. Our goal in part was to streamline this to make it easier on both builders and DPS to determine the fees applicable to a project.

C. Matching Revenue to Expense for Large Projects

There are projects of size and complexity where the fee revenue is counted in the year of receipt, but the life of the construction project extends well beyond one or two years. Also, DPS Land Management personnel stated that they often work on an individual project for five years or more.

The table shows the time that Land Development permits remain open (and, for sediment control, require two monthly inspections, per state law).

Closed in	Sediment Control	Public Right of Way
Year 1	6%	24%
Year 2	33%	35%
Year 3	32%	23%
Year 4	15%	9%
Year 5	7%	5%
Open > 5 years	7%	5%

When a large construction project or planning effort extends over several years, DPS has to fund the costs of additional years from revenue received in Year 1. With a 20 percent limit on reserves, this may be a problem for unusually large, lengthy or time-consuming projects.

We recommend that the County defer recognition of revenue on such projects so that the revenue matches the cost of each year in the life of the project. A straight-line calculation should suffice. DPS needs to develop criteria for selecting the projects that will defer revenue but Fiscal Choice recommends that the criteria focus on larger projects expected to take at least two years. Projects should represent the exception rather than the norm. DPS will need to maintain project accounting records to track the projects and reconcile to revenue received and yet to be recognized as earned.

This practice may be an important adjunct to a reasonable reserve policy, as it will improve the matching of revenue and expense to time periods.

D. Other Rate Additives

Information technology funding comes from a 5 percent additive to permits. We suggest that the County continue this practice, but provide additional detail about the spending plan for fund proceeds. Fiscal Choice understands that this additive is planned to cover all

DPS IT operating and capital needs, but is not currently doing so. There should be a matching of this revenue with the expenses so the additive can rise or fall as requirements change.

APPENDIX A (RATE SCHEDULES)

MONTGOMERY COUNTY, MD
DEPARTMENT OF PERMITTING SERVICES

	Fee
Building Construction - Residential Flat Fees	
Private in-ground pool (includes fence)	$289
Private above-ground pool (includes fence)	$216
Decks - single level (unenclosed) ≤ 500 sf or less	$180
Retaining Walls	$180
Accessory Bldg ≤ 200 sf (sheds, garages, gazebos, etc.)	$108
Demolition Permit	$144
Fence Permit	$72
Certificate of Residential Use and Occupancy	$94
Solar panels	$209
Rooftop solar panels	$231
Building Construction - Residential	
New Construction - per square foot	$ 0.71
Alterations - per square foot	$ 0.63
Building Construction - Commercial	
New Construction - per square foot	$ 1.19
Alterations - per square foot of declared value	Based on cost at rate of .024 x declared construction cost of alterations
Use, Occupancy & Misc. Flat Fee Permits	
Commercial Use, Occupancy & Misc.	
0 - 5,000 SF	$357.05
5,001 – 10,000 SF	$520.55
10,001 – 20,000 SF	$794.26
20,001 SF and up	$1,238.76 plus$ 0.024 per sq ft
U&O Fee for lots or parcels without building/structure	$575.66
Fee for using/occupying without a U&O	$109.30
Miscellaneous	
Automation enhancement fee, applied to all applicable permits and licenses	5% of permit fee
Extension of any permit not otherwise listed	$48.58
Initial inspection of sites where working without a permit	$145.74
Applicant requested partial inspection (residential)	$97.16
Re-inspection of same item or construction stage after two disapprovals (residential or commercial)	$97.16
Application revision	$48.58
Plan revision (residential) - room description name change	$48.58
Construction codes modifications or interpretations	$510.08

Fire Protection Flat Fee Permits

Fire alarm and detection systems (devices or household control panel)		$30.60
CO2, Clean Agent		$757.83
Fire sprinkler systems		$7.29
Fire Pumps		$597.52
Standpipe Systems		$524.65
Additional standpipe hose valves to existing systems		$357.05
Dry/Wet Chemical Systems		$466.36
Permit Revision Fee		$40.81
Plans Resubmittal Fee Fire Alarm		$48.09

Trades

Renewals

Electrical Apprentice License		$75.47
Electrical Business License		$75.47
Journeyman Electrician License		$75.47
Limited Electrical Business License		$75.47
Limited Master Electrician License		$75.47
Master Electrician		$75.47

New Licenses Issued

Electrical Apprentice License		$88.04
Electrical Business License		$88.04
Journeyman Electrician License		$88.04
Limited Electrical Business License		$88.04
Limited Master Electrician License		$88.04
Master Electrician		$88.04

Land Development

ROAD & RIGHT OF WAY CONSTRUCTION

Driveways fee charged as % of project cost		14.65%
Temporary Construction Activities - All Other		$211.24
Grading, Paving and Storm Drain, fee charged as % of project cost		14.65%
Minor Subdivision Record Plat Review		$499.92
Utility Permits, house connections and above ground		$422.47
Utility Permits underground main		$774.53
Traffic Management Plans		$2,605.24
ROW extension fee	15% of permit fee	

SEDIMENT CONTROL, SWM & FLOODPLAIN DISTRICT PERMITS	
Stormwater Management Concept Applications Alone or in Combination with Site Development Plans	$2,764.78
Revisions to Stormwater Management Concept Applications Alone or in Combination with Site Development Plans	$1,382.39
Sediment Control Permits	
Engineered plans per square foot disturbed	$0.086
Single Fam. Res - 30,000 sq ft and rev.	$1,910.95
Engineered Permit Extensions % of original permit price	15%
Small Land Disturbance Permits	$813.17
Forest Harvest Activities Permit	$813.17
SWM As Built Plan Review	$1,910.95
Floodplain District Permit	$894.49
Flood Plain Study	$1,138.44
Water Quality Plan Review (per acre)	$813.17
Water Quality Plan Revisions	$284.61
WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS	
Percolation Test (Conventional)	$780.46
Percolation Test (Mound Systems)	$1,051.93
Water Table Level Check	$441.13
Sewage Disposal System Permit	$1,187.66
Subdivision Plan Review, Platted Lots and Revisions	$509.00
Minor Plan Review	$373.26
Partial Environmental Health Survey	$237.53
Septage-Hauler Permit Inspection	$373.26
Septage-Hauler Permit Inspection (reciprocal)	$237.53
Review for Repair of Existing Sewage-Disposal System	$373.26
Water and Sewer Permit Extensions	$169.67
Administrative Revisions Well and Septic	$169.67
Minor Plan Revisions Well and Septic	$237.53
WELL LOCATION PERMIT	$169.67
MISCELLANEOUS FEES	
Permit Application Revisions	$70.41
Bond Replacements	$140.82
Bond Reductions	$281.65
Expedited Plan Reviews	$81.32

Zoning and Site Plan Enforcement

Zoning

Equestrian Event Permit	$454.67
Home Occupation Certificate	$419.69
Nonconforming Use Certificate	$384.72
Request to waive parking standards	$1,084.21
Enforcement of Special Exceptions	$244.82
Zoning Compliance Letters - Residential	$349.75
Zoning Compliance Letters - Commercial	$454.67
Sign Permit - Permanent Sign	$489.64
Sign Permit - Limited Duration Sign	$139.90
Sign Concept Plan	$594.57
Sign Variance	$1,294.06